

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BOARD OF PATENT APPEALS AND INTERFERENCES**

In re patent application:

Appl. No.	:	10/694,503	Confirmation No.:2665
Applicant	:	Surya Sagi, et al.	
Filed	:	October 24, 2003	
Art Unit	:	2168	
Examiner	:	Jay A. Morrison.	
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Mail Stop Appeal Brief- Patents
Commissioner for Patents
Alexandria, VA 22313-1450

APPELLANT'S SECOND CORRECTED BRIEF ON APPEAL

Sir:

In response to a Notification of Non-Compliant Appeal Brief, dated August 10, 2007, the appellant submits the following corrected Appeal Brief in the appeal of the above-identified application. This Brief is in furtherance of the Notice of Appeal filed in this case on November 21, 2006, following a Final Office Action mailed August 22, 2006.

The Commissioner is hereby authorized to charge any additional fees that may be required for this appeal or to make this brief timely or credit any overpayment to Deposit Account No. 16-1885.

I. Real Party in Interest

The real party in interest in this appeal is Pitney Bowes Inc., a Delaware corporation, the assignee of this application.

II. Related Appeals and Interferences

None.

III. Status of Claims

- (1) Claims 1-16 are the subject of this Appeal, and stand rejected.
- (2) Appellants hereby appeal the rejection of claims 1-16.

IV. Status of Amendments

In response to an Office Action dated April 17, 2006, in which claims 1-16 were rejected, claims 1 and 6-8 were amended in the Amendment dated July 14, 2006. In response to a Final Office Action dated August 22, 2006, a Pre Appeal Brief Conference Request and a Notice of Appeal were submitted. No further amendments were made subsequent to the final rejection. Claims Appendix, attached hereto, contains current claims 1-16 on appeal.

V. Summary of Claimed Subject Matter

In the Notice of Non-Compliant Appeal Brief of August 10, 2007, the Examiner stated that summary of the claimed subject matter was defective because it included a "new limitation." Applicant submits that this Summary is not the appropriate place from which to determine claim limitations. The claims are the appropriate place to look to determine the scope of limitations being claimed, not this Summary.

The Summary is for informational purposes, and by its nature it is written in prose, and is different than the single sentence claim recitation. If the Summary is not permitted to vary from the claim language, and to provide context, then it is merely redundant and not necessary. This Summary has been amended to try to address the Examiner's concern, but it should be understood that it is inappropriate to treat the Summary as if the scope of legal protection is defined by the Summary.

Claim 1

Claim1 addresses the shortcomings of the prior art by providing a system for gathering and transmitting detailed inserter machine data to one or more clients (Fig.1, page 5, line 12 to page 6, line 4). The inserter controller gathers data relating to the operation of the machine (page 6, lines 5-9). A feature of the present invention is that the gathered data is predetermined to comprise substantially all significant machine data from machine sensors and control routines (page 6, lines 10-18). The gathered data is stored in a compressed format in a journal device (page 6, line 19 to page 7, line 2, Figs. 3 & 4, page 7, lines 3 -17).

A further component of the invention is a data pump mechanism (Figs. 1 & 2). The data pump can process the compressed journal data, extract those parts that are of interest, and transmit them to client applications in a format that is easily interpreted

(page 8, line 6 to page 9, line 6). The data pump processing includes selecting a subset of data from the journal that is of interest to the particular client, and affirmately sending it to that client. (Id.)

Claim 9

Claim 9 addresses the shortcomings of the prior art by providing a method for gathering and transmitting detailed inserter machine data to one or more clients (Fig.1, page 5, line 12 to page 6, line 4). The inserter controller gathers data relating to the operation of the machine (page 6, lines 5-9). A feature of the present invention is that the gathered data is predetermined to comprise substantially all significant machine data from machine sensors and control routines (page 6, lines 10-18). The gathered data is stored in a compressed format in a journal device (page 6, line 19 to page 7, line 2, Figs. 3 & 4, page 7, lines 3 -17).

A further component of the invention is a data pump mechanism (Figs. 1 & 2). The data pump can process the compressed journal data, extract those parts that are of interest, and transmit them to client applications in a format that is easily interpreted (page 8, line 6 to page 9, line 6). The data pump processing includes selecting a subset of data from the journal that is of interest to the particular client, and affirmately sending it to that client. (Id.)

This summary is not intended to supplant the description of the claimed subject matter as provided in the claims 1-16 as recited in Appendix A, as understood in light of the entire specification.

VI. Grounds of Rejection to be Reviewed on Appeal

- (1) Whether claims 1-5, 8-13 and 16 are patentable under 35 U.S.C. §102(e) over U.S. Patent 6,965,895, Smith, et al ("Smith").

- (2) Whether claims 6-7, 14-15 are patentable under 35 U.S.C. 103(a) over Smith, et al in view of U.S. Patent 6,990,497 O'Rourke, et al. ("O'Rourke").

VII. Argument

35 U.S.C. § 102, Anticipation

Claims 1-5, 8-13 and 16 stand rejected under 35 U.S.C. § 102(e) as anticipated by U.S. Patent No. 6,965,895 to Smith ("Smith"). Claims 1 and 9 are the respective system and apparatus independent claims. Appellants submit that this rejection should be reversed because the asserted reference fails to disclose or suggest recited elements and steps of the rejected claims.

The asserted Smith reference is directed to a system for gathering data in a circuit chip fabrication facility and for performing detailed analysis on that data. Appellants note that Smith does not disclose or suggest a system using an "inserter controller" or a method for gathering "inserter machine" data, as recited in independent claims 1 and 9. The nature of the inserter controller and machine are significant in that the manner of handling and processing data gathered by such components is different than in the circuit manufacturing industry. In any case, no *prima facie* case of anticipation has been made, since Smith fails to disclose those recited features.

Another significant difference is that Smith does not disclose or suggest the "data pump" element or step for, "processing compressed data from the journal and transmitting the processed data in a format suitable for a particular client."

Smith describes details for gathering data in a circuit manufacturing process. The data that is gathered by Smith is then used differently than as claimed in claims 1 and 9 of the present application. In particular, the "data pump" element of claim 1, and

"processing" and "transmitting" steps of claim 9 affirmatively push the desired data to the client. This feature is not present in Smith.

Claim 1 recites:

a data pump configured to process compressed data from the journal and to transmit the processed data in a format suitable for a particular client, the data pump processing configuration including selecting a subset of data from the journal that is of interest to the particular client.

Claim 9 recites:

processing compressed data from the journal and transmitting the processed data in a format suitable for a particular client, the processing including selecting a subset of data from the journal that is of interest to the particular client.

Smith only describes a system whereby the gathered data is stored in a database, and may be accessed in the database. Smith therefore does not disclose the data pump or the identified method steps that affirmatively push the data in the proper format to the appropriate client recipient. Nor does Smith describe selecting a subset of the data that is of interest to a particular client, as recited in claims 1 and 9.

The specification of the present application is helpful for illuminating the distinction. The "data pump" element, and corresponding method steps, are described in the following and other passages:

The data pump **2** takes responsibility for making sure that the correct data is transmitted to the clients **4**. This arrangement relieves the responsibility of retrieving data from the clients **4**. Since clients **4** may be comprised of a variety of different types of applications, without the data pump **2** it would be difficult to ensure that the clients **4** were reliably receiving information. Data pump **2** includes client drivers **8** and data link **9** to facilitate providing the individualized data needs to each of the clients **4**. Each client driver **8** ensures that the data is properly transmitted from the data pump **2**. Some clients **4** may receive information in a format suitable for a database, while others may receive text information. Data pump **2** ensures that the information is transmitted in the format most easily understood by the client **4**. Data pump **2** can provide journal data for all mail runs, and clients **4** can receive data for status changes as they happen.

See page 8, lines 6-17.

Thus it will be understood that the "data pump" element recited in claim 1, along with the "processing" and "selecting" steps of claim 9, are not disclosed in Smith. Accordingly, it is submitted that these § 102(e)rejections should be reversed, along with the rejections of the dependent claims, 2-5, 8, 10-13 and 16 that depend from those claims.

Claims 2-5 and 10-13

Claims 2-5 and 10-13 further claim specific system details and steps for handling data stored in the journal storage system. In particular, those claims recite specific arrangements for storing information in connection with different mail runs, and/or in connection with particular inserter machines. Since Smith fails to describe anything about mail runs or inserter machines, or ways of organizing journal files around those criteria, it is submitted that these claims should be allowed for those reasons, independently from the reasons described above in connection with independent claims 1 and 9.

Claims 6 and 14

Claims 6 and 14 describe a feature and step for the data pump to determine which clients are currently active. Smith fails to describe such a feature, and it is submitted that these claims include patentable subject matter, independent of the reasons given above in connection with claims 1 and 9.

35 U.S.C. § 103, Obviousness

Claims 6-7 and 14-15 stand rejected under 35 U.S.C. § 103(a) as obvious over Smith in further view of U.S. Patent No. 6,990,497 to O'Rourke ("O'Rourke"). O'Rourke is directed to a system for dynamic streaming media management, and does not cure deficiencies identified above with respect to Smith. Further, O'Rourke fails to disclose the features recited in dependent claims 6, 7, 14 and 15.

In claim 6, the data pump is configured to determine whether clients are currently active. (See also the corresponding method at claim 14). This feature is not disclosed in O'Rourke, which is directed to providing requested streaming media to clients. There is no description of determine whether clients are currently active in O'Rourke. O'Rourke merely discloses that a streaming media can be started and stopped, but there is no disclosure of monitoring whether a client is on-line. O'Rourke further fails to disclose resumption of transmitting data when a client comes back on-line, as recited in claims 7 and 15.

O'Rourke is from a non-analogous art for purposes of combination with Smith. Neither reference includes a suggestion to combine the disclosure of O'Rourke with the disclosure of Smith to create anything covered by the rejected claims. Accordingly it is requested that these rejections be overruled.

VIII. Conclusion

In conclusion, Appellant respectfully submits that the final rejections of independent claims 1-16 are in error for at least the reasons given above and should, therefore, be reversed.

Respectfully submitted,

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CLAIMS APPENDIX

1. A system for gathering and transmitting detailed inserter machine data to one or more clients, the system comprising:

an inserter controller gathering machine data, the controller programmed to gather predetermined machine data comprising substantially all significant machine data from machine sensors and control routines;

a journal storage system configured to store machine data gathered by the inserter controller in a compressed format;

a data pump configured to process compressed data from the journal and to transmit the processed data in a format suitable for a particular client, the data pump processing configuration including selecting a subset of data from the journal that is of interest to the particular client.

2. The system of claim 1 wherein the journal storage system includes journal files, wherein each journal file stores data for a different mail run.

3. The system of claim 2 wherein the journal storage system stores machine data for a plurality of inserter machines and each data element is associated with a journal thread within the journal files.

4. The system of claim 3 wherein each journal thread is associated with a particular inserter machine.

5. The system of claim 4 wherein the data stored in the journal storage system comprises event entries, thread context entries, and system information entries.
6. The system of claim 1 wherein the data pump is configured to determine whether clients are currently active.
7. The system of claim 6 wherein the data pump is configured to track what data has been transmitted to each client, and whereby if a particular client goes offline, the data pump is configured to resume transmittal at a point where transmittal was interrupted.
8. The system of claim 1 wherein the data pump is configured to translate the compressed data from the journal storage system to an XML format.
9. A method for gathering and transmitting detailed inserter machine data to one or more clients, the method comprising:
 - gathering predetermined machine data comprising substantially all significant machine data from machine sensors and control routines;
 - storing gathered machine data in a compressed format;
 - processing compressed data from the journal and transmitting the processed data in a format suitable for a particular client, the processing including selecting a subset of data from the journal that is of interest to the particular client.

10. The method of claim 9 wherein the step of storing includes storing data for different mail runs in different journal files.
11. The method of claim 10 wherein the step of storing further includes storing machine data for a plurality of inserter machines and each data element is associated with a journal thread in the journal files.
12. The method of claim 11 further including associating each journal thread with a particular inserter machine.
13. The method of claim 12 wherein the step of storing includes storing data entries comprising event entries, thread context entries, and system information entries.
14. The method of claim 9 further comprising determining whether clients are currently active.
15. The method of claim 14 further comprising tracking what data has been transmitted to each client, and whereby if a particular client goes offline, resuming transmittal later in time at a point where transmittal was interrupted.
16. The system of claim 9 further comprising translating the stored compressed data to an XML format prior to transmittal to a client.

EVIDENCE APPENDIX

None

RELATED PROCEEDINGS APPENDIX

None